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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,682	04/21/2004	Elizabeth A. Farmer	JR-2004-61	4470
50017	7590	10/28/2005		
RITCHISON LAW OFFICES, PC 115 EAST NINTH STREET - SUITE A ANDERSON, IN 46016-1507				
EXAMINER MENDIRATTA, VISHU K				
ART UNIT		PAPER NUMBER		
3711				

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/828,682	<b>Applicant(s)</b> FARMER, ELIZABETH A.	
	<b>Examiner</b> Vishu K. Mendiratta	<b>Art Unit</b> 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Specification***

1. The amendment filed 8/8/05 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Applicant's original disclosure has no indication of "a means to monitor". As understood the monitoring is merely the presence of an adult human being as a rule and no apparatus means is used for monitoring.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Regarding claim 5, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

4. Claims 1,4-6 rejected under 35 U.S.C. 102(b) as being anticipated by Bolach (4003577).

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Claims 1,5-6: Bolach teaches a board game (10), spaces with categories of action indicia (22) in simple geometric figures, cards with indicia corresponding to spaces (18), chance device (14) as a spinner.

Note that "whereby" clause is the intended of the apparatus and do not further limit the claimed apparatus.

Applicant may note that chance devices such as a set of dice, spinners and bag full of numbers are art recognized alternatives and are used one for the other. This is treated as inherently taught in the cited game.

5. Claim 7 rejected under 35 U.S.C. 102(b) as being anticipated by Carrera (4273227).

Carrera teaches depicting a pathway (10), advancing on the path according to a spinner (Fig.4), providing tokens for positioning (Fig.2), providing activities to interact between adult and children (abstract). Communication between an adult and children is being treated as monitoring and feedback between them.

***Claim Rejections - 35 USC § 103***

6. Claim 2 rejected under 35 U.S.C. 103(a) as being unpatentable over Bolach in view of Ex. Parte Breslow 192 USPQ 431.

The only difference between the cited categories and applicant's categories resides in meaning and information conveyed by the printed matter and not considered patentable differences. In order to create a variation in game for another group of players, it would have been obvious to use different types of categories.

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One of ordinary skill in art at the time the invention was made would have suggested placing other categories to attract a different group of players.

7. Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over Bolach.

Claim 3: Bolach teaches all limitations except the intended use of the game on a computer.

It is a common practice in this day and age to present a game on a computer media for the purpose of reaching a wide section of population.

In order to make the game available to a wide section of population, it would have been obvious to use a computer medium to promote a game.

One of ordinary skill in art at the time the invention was made would have suggested playing the game on computer.

8. Claims 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Carrera.

The only difference between claimed spaces and cited references spaces resides in meaning and information conveyed by the printed matter and not considered patentable Ex. Parte Breslow 192 USPQ 431.

In order to make the game appeal to potential players, it would have been obvious to change the space indicia to another themes. One of ordinary skill in art at the time the invention was made would have suggested modifying space indicia to attract potential players.

9. Claim 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (6224056).

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Jones teaches board with categorized spaces and corresponding cards (abstract), chance device (4:22-26), game pieces (3:46-47).

The only difference between claimed spaces and cited references spaces resides in meaning and information conveyed by the printed matter and not considered patentable Ex. Parte Breslow 192 USPQ 431.

In order to make the game appeal to potential players, it would have been obvious to change the space indicia to another themes. One of ordinary skill in art at the time the invention was made would have suggested modifying space indicia to attract potential players.

### ***Response to Arguments***

10. Applicant's arguments filed 8/8/05 have been fully considered but they are not persuasive.

Underlined limitations in amended claims 1-6 are either intended use limitations or rules for playing that do not further limit an apparatus in the claim. A game that can be played by persons of attention deficit, can also be played by persons with physical/mental challenges.

In claims 6 and 7 "ornamental space, simple developmental activity, aesthetically pleasing" does not just include a subjective element, it is completely dependent on a person's subjective opinion. "

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K. Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vishu K Mendiratta



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Primary Examiner  
Art Unit 3711

VKM  
October 19, 2005

A handwritten signature in black ink, consisting of a large, stylized 'V' followed by a cursive 'K' and 'M'.